

<p style="text-align: center;">STANDBY LETTER OF CREDIT (SBLC) PROCEDURES PAPER EXCERPTS</p>

Section 1: Introduction and Framework

1.1 Purpose

This paper describes the procedures pursuant to which a Standby Letter of Credit (SBLC) instrument can apply to the Foreign Military Sales (FMS) program. The rights of the DSCA under an SBLC are independent of the underlying transaction between the financial institution and the FMS Purchaser.

1.2 Scope

This SBLC is in lieu of termination liability (T/L) prepayment requirements under the FMS program. Instead of T/L prepayments being deposited into the FMS Purchaser's Federal Reserve Bank (FRB) account or the FMS Trust Fund, an equivalent amount is guaranteed under the SBLC. Other financial requirements owed the USG (i.e., working capital) are not covered by this arrangement. This SBLC covers all basic FMS cases offered on or after 1 November 2001.

Section 2: Responsibilities

2.1 Defense Security Cooperation Agency (DSCA)

The DSCA is the Beneficiary stated on the SBLC. The DSCA is responsible for implementing all aspects of the U.S. Security Cooperation Program. In addition, DSCA is the Trust Fund manager of the FMS program and is ultimately responsible for sound and efficient fiduciary and financial management thereof.

2.1.1 Director

The DSCA Director has overall responsibility for ensuring the successful implementation, execution and management of the SBLC program. The Director must approve any waivers to the eligibility threshold criteria contained in Section 3.3 and 3.4 below as regards a particular SBLC application.

2.1.2 Comptroller

The DSCA Comptroller directs and oversees the financial management of Security Cooperation programs (particularly the Foreign Military Sales program) and DoD appropriated programs allocated to DSCA to optimize the use of fiscal resources and maximize benefit to the U.S. foreign policy and national security objectives. The Comptroller is the lead directorate within DSCA for performing the FMS Trust Fund manager functions/duties.

The DSCA Comptroller provides general leadership and policy guidance to the Deputy for Financial Management regarding administration of the SBLC program. The Comptroller signs all invitations for FMS Purchasers to consider joining the SBLC program. The Comptroller determines whether a SBLC application will be approved or rejected. Lastly, the Comptroller normally signs all SBLC documents on behalf of DSCA ("Beneficiary").

Attachment 1

2.1.3 Deputy for Financial Management (FM)

The Deputy for FM is responsible for day-to-day financial management of the FMS program, to include country financial management, financial policy and information reporting.

FM will prepare all invitation letters; issue for release all SBLC documents; conduct negotiations and discussions with FMS Purchaser representatives and participating bank officials; recommend to the DSCA Comptroller whether a SBLC application should be approved or rejected; ensure adherence to SBLC policy; update SBLC policy as necessary (to include obtaining requisite coordinations thereon); notify DFAS and the Implementing Agencies when SBLCs are implemented (to include confirmation as to which FMS cases pertain); maintain a current tracking mechanism to reflect SBLC activity; resolve problems/issues that arise; keep the DSCA Director and Comptroller apprised of SBLC-related issues as appropriate; serve as USG contact for all SBLC-related inquiries; and serve as overall coordinator for the SBLC program.

2.1.4 General Counsel (GC)

The DSCA GC will serve as counsel to the Director, Comptroller and FM on SBLC issues. GC will coordinate on all SBLC documents prior to their issuance to designated parties for their review and acceptance. GC is responsible for reviewing any proposed revisions to SBLC documents. In addition, GC will articulate dispute resolution mechanisms. As necessary, DSCA GC will coordinate with DoD GC (Fiscal).

2.2 Office of the Under Secretary of Defense (Comptroller)

The OUSD(C) is responsible for issuing financial policy relating to the FMS program. Volume 15 of the DoD Financial Management Regulation (FMR, DoD 7000.14-R) pertains. OUSD(C) shall coordinate on the generic SBLC documents and issue formal changes to the FMR/Volume 15 to reflect the SBLC program.

2.3 Defense Financing and Accounting Service (DFAS) Denver

The Directorate for Security Assistance (DFAS-AY/DE) is responsible for the financial accounting of FMS Trust Fund transactions. As regards the SBLC, DFAS-AY/DE will record the deposit of funds from the issuing/confirming bank(s) to the FMS Purchaser's Trust Fund general ledger account (GLA) 1009. (This will have a corresponding impact on GLA 1001 as well.) DFAS-AY/DE will be provided copies of all sight drafts issued by DSCA, in order to be provided advance notification of the forthcoming deposit.

2.4 FMS Purchaser

The FMS Purchaser may initiate a request to participate in the SBLC for FMS program. All requests, either initiated unilaterally or in reply to a DSCA invitation, must be sent to the DSCA Comptroller in writing and signed by an official authorized to accept the SBLC documents on behalf of the Purchaser's government/organization. The FMS Purchaser is responsible for paying to the issuing bank any/all fees associated with the SBLC. No fees can be capitalized or subsumed into the dollar amount specified in the SBLC documents. The Purchaser must specify to DSCA the issuing and/or confirming bank(s) it wishes to participate in the SBLC for FMS program. The Purchaser is responsible for notifying DSCA in writing if and when it wishes to terminate its agreement with an issuing and/or confirming bank. Lastly, the Purchaser must sign the agreement specifying terms and conditions in order for the associated SBLC to be implemented.

2.5 Implementing Agencies (IAs)

Refer to Chapter 7 of the Security Assistance Management Manual (DoD 5105.38-M) for general IA responsibilities as regards the FMS program. For the SBLC program, the IAs will be notified by DSCA when the SBLC for a particular FMS Purchaser is implemented. That notification will include the list of cases (or cite all cases as a general statement) governed by the SBLC. Accordingly, the IA will ensure proper format of payment schedules that extract the T/L component as a financial requirement owed the USG. Likewise, should a given SBLC be terminated, the payment schedules may need to be revised to re-insert T/L as appropriate; the same time frames as noted in the preceding sentence apply.

Section 3: Implementation

3.1 Implementation Criteria

The SBLC is binding when issued. The Terms and Conditions Agreement is considered to be implemented when all parties signed all copies of the documents and the corresponding SBLC is issued. At this stage, the process to notify applicable USG agencies as to the implementation shall commence.

3.2 Notification to USG Entities

Upon SBLC implementation, DSCA will engage specific DoD components as follows:

- *Implementing Agencies:* A frontchannel cable will be sent from DSCA that provides the SBLC implementation date; confirms the extent of T/L coverage under the SBLC; and provides either a list of affected cases (or makes general reference to all cases to which T/L applies). The cable will also specify actions to be performed in terms of ensuring proper format of payment schedules on affected cases. See Section 2.5 above.
- *DFAS:* A frontchannel cable will be sent from DSCA that conveys the requirement to modify the means by which DFAS captures the payment schedule amounts into its DIFS system.
- *FMS Purchaser:* A letter will be sent from DSCA that confirms implementation details of the SBLC documents.

Section 4: Execution/Monitoring/Adjustments

4.1 Sight Draft Process/Requirements

A sight draft is a demand for payment. This Section describes the associated actions and requirements.

4.1.1 Events Prompting a Sight Draft

A sight draft may be completed by FM and signed by the DSCA Comptroller after coordination and approval by the Director or Deputy Director. DSCA may issue a sight draft if any of the following situations occur:

- The FMS Purchaser notifies the USG in writing that it is terminating all or a portion of any FMS case.
- The USG notifies the FMS Purchaser in writing that it is terminating an FMS case(s) or contracts relating to an FMS case.
- The USG is aware the SBLC is being either terminated or not extended beyond its expiration date.
- A contractor presents a bill to the USG for termination charges associated with an FMS case(s).
- The issuing and/or confirming bank falls below DSCA's acceptable eligibility thresholds.

The sight drafts may demand payment for the entire secured amount (to include the automatic amendment of up to 10 percent over the original secured amount) or for a portion of the secured amount. Multiple drawings, on either the same date or on separate dates, can also occur, provided those drawings taken together do not exceed the original or amended secured amount.

4.1.2 Sight Draft Presentation

The sight draft must be completed and signed by the DSCA Comptroller. It will be presented to the issuing bank (with a copy to the FMS Purchaser and, if applicable, the confirming bank). DSCA will handcarry, express mail or telex the sight draft to the address specified in the SBLC and the Terms and Conditions Agreement. No documentation other than the sight draft is required for presentation to the bank in order for that presentation to be complete. The bank cannot dishonor payment by demanding that additional documents be furnished by the DSCA.

4.1.3 Sight Draft Honor

The sight draft, SBLC agreement (and, in the absence of specific terms, clauses or provisions in either of those documents, the ISP 98) govern the timeframes by which the payment demand is to be honored.

4.1.4 Application of Payment Received

The sight draft specifies the account into which the payment shall be remitted. Upon receipt, DFAS will ensure the payment is properly credited to the FMS case(s) as directed on the wire transfer. DFAS will notify DSCA (FM) via e-mail as to the date deposited and FMS case(s) credited within three (3) business days of demand payment receipt. DSCA (FM) will acknowledge to DFAS via e-mail within one (1) business day thereafter its receipt of the DFAS advice and confirm that it approves the demand payment application.

4.1.5 Impact of Sight Draft on SBLC Secured amount

To the extent a sight draft is presented and demand payment received, the corresponding amount is deducted from the SBLC Secured amount remaining for future payment. Understandably, a bank's amount under an SBLC for a given FMS Purchaser is

ultimately finite in nature. For example, if the SBLC Secured amount is \$100M and a payment of \$42M is made to DSCA, only \$58M is available for subsequent drawings. An exception to this is if the SBLC Secured amount is restored to \$100M (or some other amount) via an amended or new SBLC.

4.2 Monitoring Requirements

DSCA (FM) will monitor the status of each SBLC for FMS on a basis not less than quarterly. This includes processes as noted in the following sections.

4.2.1 Validating T/L Requirements

Each quarter, DSCA (FM) Financial Policy will, in coordination with the DSCA (FM) CFD, determine whether the secured amount specified in the SBLC remains adequate to cover T/L requirements for the portion of the Purchaser's FMS program governed by the SBLC. This is in recognition of the dynamic nature of FMS programs. For example, during the period in which a given SBLC is active, many FMS cases may be implemented, many may close and many may continue to be executed – all of which may impact the corpus-level T/L requirement. Refer to Section 6.3 below for actions taken to amend the SBLC to reflect changes in the T/L.

4.2.2 Tracking Mechanism

Each quarter, DSCA (FM) Financial Policy will submit via the Deputy for FM to the Comptroller a report to identify SBLC activity/status. On an annual basis (by 31 October for the fiscal year-end), a consolidated report will be forwarded to the DSCA Director with an information copy to OUSD(C). The annual report will include overall assessments and a recommendation as to any changes in the overarching SBLC policy that may be required to more effectively execute this program.

4.3 Amendments

It is recognized that valid changes to any given SBLC while it is active can be necessary. These changes could be prompted by the DSCA assessment that the amount should be adjusted, the Purchaser's and/or issuing bank(s) request for the same, and changes in any terms and conditions acceptable to all parties. Regardless of the reason, all amendments must be approved by DSCA before they are accepted and implemented.

4.4 Impact on LOA Payment Schedules

T/L applies for purchases of defense articles and defense services made pursuant to Section 21 of the Arms Export Control Act. In the event no SBLC exists, T/L prepayments are made as part of the financial requirements owed the DSCA on each applicable FMS case. With an executed SBLC, T/L requirements are instead governed by the SBLC instrument. The SBLC therefore impacts the USG's financial requirements. Accordingly, the FMS case payment schedules must be adjusted to identify the revised amount owed the DSCA (which equals the advance collection of funds needed to cover anticipated disbursements).

Upon SBLC implementation, DSCA will notify the IAs in accordance with Section 3.2 above. For basic FMS cases offered on or after 1 November 2001, the IAs will ensure payment schedules reflect the exclusion of T/L from the financial requirements owed the USG. Initially, this will be accomplished by ensuring the payment schedules (using the current format) consider

only the anticipated financial expenditures and omit the T/L requirement. The following format applies once the requisite reprogramming enhancements to DSAMS are completed:

Quarterly Payment	(1) Total Requirements	(2) Termination Liability	[(1) – (2)] USG Financial Requirements
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Upon receiving the LOA documents, DFAS will load the “USG Financial Requirements” figures into DIFS. This will replace the “total requirements” figures currently shown in DIFS and, consequently, revise future financial forecasts and individual quarterly amounts due.

Section 5: Closeout

5.1 Closeout

Closeout of the SBLC can be prompted by its termination or expiration without extension. Within thirty days after either date (whichever occurs earlier), the bank(s) will be requested to submit to the DSCA Comptroller and to the authorized FMS Purchaser official a written notice that confirms the SBLC was closed and that the bank is no longer carrying this contingent liability on its books. Within fifteen days after receiving the bank’s notice, DSCA will send written confirmation to the FMS Purchaser and the bank that it has also closed the SBLC. Written confirmation to the FMS Purchaser will also include information on how future T/L requirements will be billed until/unless a new SBLC is implemented. DSCA will notify DFAS and the IAs that the SBLC was closed and instruct (a) the IAs as to consequent payment schedule methodology and (b) DFAS as to the revised billing process.

If the FMS Purchaser requests that the SBLC not be renewed, not later than 30 days prior to the expiration date it may request that DSCA either draw the entire T/L amount from the SBLC or shall deposit the applicable T/L prepayment amount into its FMS Trust Fund account. If the secured amount available in the SBLC is not sufficient to cover all T/L funds required at the time of SBLC expiration, the Purchaser would be responsible for depositing that uncovered amount.

Section 6: Points of Contact

For more information, contact:

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